

However, there may be circumstances where higher compensation is requested by a landowner because of a loss of property value or other considerations. In these cases, the improvement district will have to carefully weigh the implications of a larger settlement against the cost of relocating the works.

Landowner Consultation and Approval

General

There are circumstances when a board of trustees may want to survey the landowners to determine their opinion on a matter before committing the improvement district to a particular course of action. In addition, the province may require an improvement district to obtain evidence of landowner support before considering the registration of a bylaw or other matter requiring provincial approval. There are very few provisions in the *Local Government Act* or Letters Patent, specifically dealing with the questions of why, how, or when, an improvement district requires the approval of its landowners.

The following guidelines have been drafted to assist improvement districts where landowner approval is required. However, since there are different methods for obtaining landowner approval, and not all of them are suitable for all circumstances, it is strongly recommended that improvement districts contact the Ministry for direction in these cases.

Voluntary Landowner Approval

Letters Patent generally state the board of trustees may call a special general meeting to discuss any matter with the landowners. This includes the ability to ask the landowners for formal support for the matter being discussed at the meeting. The types of matters referred to landowners for approval range from borrowing bylaws, rate increases and major capital projects, to a water meter installation program or water restrictions. There are no constraints on matters that can be referred to landowners for approval except that it must be related to the services provided by the improvement district.

Requirements for Landowner Approval

Section 747 of the *Local Government Act* states the Inspector of Municipalities may register a bylaw, refuse to register it, or take any other action considered in the interest of the improvement district or the provincial government. Occasionally, the Inspector of Municipalities requires an improvement district to provide evidence that its landowners support a bylaw before allowing it to be registered. This occurs most often when a bylaw is expected to have a major impact on landowners, either financially or through a fundamental change to the way in which the improvement district delivers, or regulates, its services. All long-term borrowing bylaws generally require landowner approval, as do bylaws that materially increase rates charged to the landowners.

Methods of Landowner Approval

There are various methods for obtaining landowner approval and specific procedures that must be followed. Landowner approval is the culmination of a process that includes an analysis of an issue or project and may also include approvals by the Ministry or other agencies. Information on the process leading up to landowner approval can be found in Section C under Capital Projects.

Annual or Special General Meetings - Most improvement district Letters Patent state the board of trustees may call a special general meeting to discuss any matter which, in the opinion of the board, should be brought up at a general meeting. As part of this process, the trustees could hold a vote at the meeting, provided the landowners are properly notified in advance of the issue, and of the opportunity to vote. This method gives the landowners the ability to discuss the issue or project at the meeting immediately prior to voting. It is less convenient than a referendum for the landowners because they have to be present at the meeting to vote but it does permit the results to be known in a relatively short time and may be more practical when the number of landowners in the improvement district is relatively small. It is the most commonly used method used by improvement districts to obtain landowner approval.

Where a vote is planned at the annual or special general meeting, the improvement district must, at a minimum, follow the same notification procedures as in its Letters Patent for the election of trustees. The notice must clearly indicate the subject that is going to be discussed at the meeting and the fact that a vote will be held. Ballots should be used to ensure the vote is secret.

Direct Petition - Direct petitions are usually used for boundary extensions and are suitable for that purpose because they usually involve a small number of properties. This method requires an improvement district to inform resident and non-resident landowners about the proposal. An individual petition would then be signed by the owner(s) and returned to the improvement district if the owner is in favour of the proposal. However, questions can be raised about the authenticity of the signatures on petitions and the rights of the landowner to have a secret vote. The Ministry does not support the use of direct petitions for purposes other than minor boundary extensions.

Referendum - A referendum is a vote held where the landowners cast their ballot at a polling station on a particular day. An improvement district may be required by the provincial government to hold a referendum prior to the approval of a bylaw or other matter requiring provincial approval. An improvement district may also initiate a referendum itself but there is no specific authority in the *Local Government Act* or Letters Patent as to when a referendum is required. Since the majority of improvement districts are fairly small, it is unlikely they will need to use a referendum since a special general meeting would be a more

practical method for obtaining landowner approval. More detailed information on referendum procedures can be found in the Referendum Guidelines section following.

Alternative Approval Process – An alternative approval process (AAP) is a method for electors to have direct input into a proposed action or decision of the board. The process begins when a notice is published explaining the issue and then the electors have an opportunity to petition against it within 30 days. If ten percent of the electors petition against the matter, the board cannot proceed with it unless approval of the electors is obtained through a referendum or special general meeting vote. Information on the alternative approval process can be found in the AAP section following.

Guidelines for Obtaining Landowner Approval

General

The percentage of landowner support that must be obtained in a vote in order to approve a project or issue for an improvement district is not set down in the *Local Government Act* or Letters Patent. In most cases, a majority of the electors is sufficient to approve the project or issue. However, projects that have a substantial financial impact on landowners should meet a higher threshold. The percentage of voter turnout should also be taken into consideration when viewing the results of a vote. While there is no minimum percentage of voter turnout stipulated, a low percentage of voter turnout may not necessarily reflect the majority view and consideration should be given for holding another vote.

The results of a vote or petition are not binding on a board of trustees, the Ministry, or Cabinet. There may be circumstances where overriding concerns result in a project or issue being either approved or rejected by the board, the Ministry, or Cabinet regardless of the view expressed by a majority of the landowners.

Referendum Guidelines

General

The Ministry may require an improvement district to hold a referendum as a means for determining landowner support for a project or issue. There is no specific authority or reference in the *Local Government Act* or Letters Patent dealing with referenda.

A referendum is the culmination of a process whereby an analysis of a project or issue was first undertaken to identify financial and other impacts. The process may also involve preliminary approval from the Ministry or other agencies. Information on the process can be found in Section C, under Capital Projects.

Alternative Approval Process (Formerly referred to as Counter Petition)

General

An alternative approval process (AAP) is a method for electors to have direct input into a decision or action proposed by the board. The improvement district must advertise information about the matter and then the electors have an opportunity to petition against it. If more than ten percent of the electors petition against the matter, the board cannot proceed with it unless the approval of the electors is obtained through a referendum or special general meeting vote.

Process

The improvement district must develop and provide the petition which is also known as an elector response form. The board must set a deadline by which completed forms must be submitted to the improvement district. Notice of the AAP must be published in at least two issues of a newspaper. The second publication must appear at least 30 days before the deadline set by the board. Information about the AAP opportunity could also be mailed by first class mail to all electors if there is no newspaper circulating in the community.

From the time of the first publication, a copy of the notice should be posted in a public place in the improvement district. The notice must include:

- a general description of the project, including costs;
- a statement that the board of trustees may proceed with the project unless more than ten percent petition against the proposal;
- the area the project benefits (i.e. usually the entire improvement district);
- the deadline by which signed the elector response forms must be submitted to the improvement district;
- an estimate of the number of persons who must petition against the matter in order for the AAP to be sufficient. (Those persons eligible to vote at an election would be eligible to sign an elector response form); and,
- how elector response forms may be submitted to the improvement district (i.e., where they can be mailed, faxed, or delivered).

Once the 30-day period has ended, the corporate officer must certify the number of acceptable elector response forms that were received. If at least ten percent of the electors sign elector response forms, then the improvement district cannot proceed with the project unless a majority of the electors vote in favour of the matter at a referendum or a vote at a special general meeting.

If less than ten percent of the electors sign elector response forms the board may proceed with the matter. If the registration of a bylaw is pending, the corporate officer's certification should be submitted to the Ministry along with other background material, to allow a review of the bylaw to be completed.

Please see Section 86 of the *Community Charter* for further information on AAPs.